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**Subject:** Microsoft Settlement

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Microsoft Settlement

I am a U. S. citizen with 28 years experience developing software for computers. I wish to express my concern that the proposed settlement agreement is inadequate remedy, in light of the considerable public harm.

A pattern of Microsoft behavior is evident, (including the disregard for the 1995 consent decree), suggesting that unless an effective remedy is enacted at this time, the public will continue to suffer from the lack of competition and we will again be searching for remedy in some future litigation of an even more complicated nature.

The proposed settlement will be an ineffective remedy. It appears likely to provide a roadmap for future behavior which would exploit the loopholes, further harming the public. In effect, it grants Microsoft rights which would not otherwise exist. By allowing Microsoft the power to define the terms, it may actually foster anticompetitive behavior. By focusing on commercial competition, it ignores or even hinders open source software, one of the most viable alternatives to Microsoft software.

I believe that an effective remedy must educate and inform the public, promote competition and prevent further abuse of monopoly power. The following comments may be helpful in achieving that result.

Restrictive licensing terms prevent public disclosure of Microsoft product performance characteristics. Even freedom of speech is under attack from Microsoft. Provisions in the license for their web site creation tool prohibit anti-Microsoft statements.

Microsoft must make public service announcements, acknowledging their violations of antitrust law, and the harm caused to the

public. Complete disclosure is required. They recently attempted to hide information from the public by barring the media and the public from upcoming depositions. Additionally, Microsoft did not fully disclose congressional lobbying or contact with members of the current administration as is required by the Tunney Act.

Federal regulations have provided for educational information to the public in many product areas. Product labeling provides food product ingredients, automobile fuel efficiency, appliance energy consumption, tobacco and alcohol health considerations. Imposition of labeling requirements for PCs will similarly benefit the public.

When the IBM PC was introduced in 1981, operating system software was not bundled into the system price. IBM offered several operating systems for the PC. The public chose the lower cost solution, which was IBM's version of Microsoft DOS. The public deserves choice today, but it is effectively denied by the bundling policies of the Microsoft OEMs.

For any computer system offered with Microsoft software, OEMs must make that same system as readily available without the Microsoft software. The price difference must reflect the actual costs associated with providing the Microsoft software, support and warranty services. A refund based model is not adequate. The costs must be fully disclosed on the product labeling and Microsoft must not financially benefit from the sale of a system without Microsoft software.

Uniform pricing for Microsoft products should be via a single, published, public volume discount schedule. Pricing must not be influenced by any other consideration.

The software resulting from Microsoft's claimed "freedom to innovate" should be offered as separate products, not bundled into Windows. "Freedom to innovate" should not imply "freedom to integrate".

Microsoft must be prevented from practicing their "Embrace, Extend, Extinguish" tactics to wrest control of standards to their benefit. Their dot.net plans are an attempt to extend the monopoly to the internet itself. Microsoft must be prevented from using their current monopoly power to extend it into new areas.

New versions of Microsoft products as well as new Microsoft products must, as the installation default, compatibly interoperate with prior versions of Microsoft products and other non-Microsoft software programs.

Thank you for your consideration.

Sincerely,

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Take care... Ken Seikel   kseikel@neo.rr.com